

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

BRADFORD O. BRYANT,	)	No. C 07-1845 JSW (PR)
	)	
Petitioner,	)	
	)	
vs.	)	<b>ORDER TO SHOW CAUSE</b>
	)	
BEN CURRY, Warden,	)	
	)	(Docket No. 3)
Respondent.	)	
	)	

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**INTRODUCTION**

Petitioner, a prisoner of the State of California, currently incarcerated at Correctional Training Facility in Soledad, California, has filed a habeas corpus petition pursuant to 28 U.S.C. § 2254 challenging the Board of Prison Terms ("BPT") denial of parole during parole suitability proceedings. Petitioner has paid the filing fee and has also filed a motion to proceed *in forma pauperis* (docket no. 3), which is now DENIED as moot. This order directs Respondent to show cause why the petition should not be granted.

**BACKGROUND**

According to the petition, Petitioner was convicted of second degree murder in San Diego County Superior Court and, on April 24, 1980, was sentenced to fifteen years-to-life. In this habeas action, Petitioner does not challenge his conviction, but instead challenges the execution of his sentence. Petitioner contends that the denial of parole by the BPT during parole suitability proceedings in 2006 violated his constitutional rights.

1 He alleges that he has exhausted state judicial remedies as to all of the claims raised in  
2 his federal petition.

### 3 DISCUSSION

#### 4 I Standard of Review

5 This court may entertain a petition for a writ of habeas corpus “in behalf of a  
6 person in custody pursuant to the judgment of a State court only on the ground that he is  
7 in custody in violation of the Constitution or laws or treaties of the United States.” 28  
8 U.S.C. § 2254(a).

9 It shall “award the writ or issue an order directing the respondent to show cause  
10 why the writ should not be granted, unless it appears from the application that the  
11 applicant or person detained is not entitled thereto.” *Id.* § 2243.

#### 12 II Legal Claims

13 Petitioner alleges that his constitutional rights were violated by the parole denial by  
14 the BPT in 2006 and raises eight claims in the petition. Liberally construed, the  
15 allegations are sufficient to warrant a response from Respondent. *See Board of Pardons v.*  
16 *Allen*, 482 U.S. 369 (1987); *see, e.g., Morales v. California Dep't of Corrections*, 16 F.3d  
17 1001, 1005 (9th Cir. 1994), *rev'd on other grounds*, 514 U.S. 499 (1995).

### 18 CONCLUSION

19 For the foregoing reasons and for good cause shown,

20 1. The Clerk shall serve by certified mail a copy of this order and the petition, and  
21 all attachments thereto, on Respondent and Respondent's attorney, the Attorney General  
22 of the State of California. The Clerk also shall serve a copy of this order on Petitioner.

23 2. Respondent shall file with the Court and serve on Petitioner, within **sixty (60)**  
24 days of the issuance of this order, an answer conforming in all respects to Rule 5 of the  
25 Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should  
26 not be granted. Respondent shall file with the answer and serve on Petitioner a copy of all  
27 portions of the state trial record that have been transcribed previously and that are relevant  
28

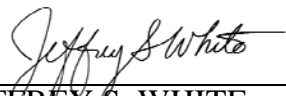
1 to a determination of the issues presented by the petition. If Petitioner wishes to respond  
2 to the answer, he shall do so by filing a traverse with the Court and serving it on  
3 Respondent within **thirty (30)** days of his receipt of the answer.

4 3. Respondent may file a motion to dismiss on procedural grounds in lieu of an  
5 answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules Governing  
6 Section 2254 Cases. If Respondent files such a motion, Petitioner shall file with the Court  
7 and serve on Respondent an opposition or statement of non-opposition within **thirty (30)**  
8 days of receipt of the motion, and Respondent shall file with the Court and serve on  
9 Petitioner a reply within **fifteen (15)** days of receipt of any opposition.

10 4. It is Petitioner's responsibility to prosecute this case. Petitioner must keep  
11 the Court informed of any change of address by filing a separate paper captioned "Notice  
12 of Change of Address." He must comply with the Court's orders in a timely fashion.  
13 Failure to do so may result in the dismissal of this action for failure to prosecute pursuant  
14 to Federal Rule of Civil Procedure 41(b)

15 IT IS SO ORDERED.

16 DATED: December 13, 2007

17   
18 JEFFREY S. WHITE  
19 United States District Judge  
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UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

BRADFORD O. BRYANT,  
Plaintiff,

Case Number: CV07-01845 JSW

**CERTIFICATE OF SERVICE**

v.


BEN CURRY et al,  
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on December 13, 2007, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Bradford O. Bryant  
CTF  
P.O. Box 689  
C-16113  
Soledad, CA 93960-0689

Dated: December 13, 2007

  
Richard W. Wieking, Clerk  
By: Jennifer Ottolini, Deputy Clerk